

REMARKS

Applicants traverse the further three-way restriction of species Group No. 1.

37 CFR 1.141 specifically states that two or more independent and distinct inventions may not be claimed in one national application, except that more than one species of an invention, not to exceed a reasonable number, may be specifically claimed in different claims in one national application, provided the application also includes an allowable claim generic to all the claimed species and all the claims to species in excess of one are written in dependent form (§ 1.75) or otherwise include all the limitations of the generic claim..

Applicants assert that the Examiner has acknowledged that claim 1 is a generic claim and that if allowed would render all species allowable. In the searching of prior art in the examination of claim 1, applicants assert that the Examiner must show that (A) the inventions are independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05 -§ 806.05(i)); and

(B) there must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) -§ 806.04(i), § 808.01(a), and § 808.02). Applicants assert that no serious burden will be placed on the Examiner, because the element in question "depositing energy" is generic and that any reasonable search will necessarily include specific forms of energy, such as induction heating, dielectric heating and penetrating radiation and thus place no undue or serious burden on the Examiner.

Therefore, based upon the above rationale, applicants request that the further three-way restriction be withdrawn at this time.

Provisional Election to Three-way Restriction

In an effort to advance prosecution in the current Office Action, applicants provisionally elect Species 1 (induction heating).

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Conclusions

In view of the foregoing, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Respectfully submitted,



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